

COURT MINUTES OF SENTENCING HEARING

UNITED STATES of AMERICA,

v.

CASE NO. 17-CR-124-2-JPS

MARCUS HUTCHINS.

HON. J. P. STADTMUELLER PRESIDING

DATE: July 26, 2019

TIME SCHEDULED: 11:30 a.m.

COURT DEPUTY/CLERK: Caitlin Lynch

TIME CALLED: 11:28 a.m.

COURT REPORTER: John Schindhelm

TIME FINISHED: 12:43 p.m.

GOVERNMENT BY: Benjamin Proctor and Benjamin Taibleson

DEFENDANT BY: Brian Klein, Marcia Hoffmann, and Emily Stierwalt

PROBATION BY: James Fetherston

Notes:

- 11:28 Appearances; Court puts background of case on record, including Defendant's having pled guilty to Counts One and Two of the superseding Indictment; Court notes it has reviewed presentence report
- 11:31 Parties have reviewed presentence report; Defendant's attorney makes correction to paragraph 147 of the revised presentence report, Defendant is, in fact, eligible for probation; Mr. Fetherston agrees; Defendant has no other objections
- 11:32 Government has no objections to the facts as stated therein; Court therefore adopts the facts as stated in the revised presentence report
- 11:33 Court notes applicable Guidelines:
- | | |
|---------------------------------|----|
| Total Offense Level: | 11 |
| Criminal History Category: | I |
| 8 to 14 months imprisonment | |
| 1 to 3 years supervised release | |
| \$4,000.00 to \$40,000.00 fine | |
| \$200.00 special assessment | |
- 11:34 Defendant accepts these guidelines; Court acknowledges Government's objections to guidelines; Government makes statement in favor of loss enhancement
- 11:38 Defendant's counsel makes statement in response

11:40 Government has no further comment; Court comments
11:47 Court concludes that probation is correct, no loss enhancement will be applied
11:49 Court is constrained to adopt the guidelines that probation initially submitted
11:51 Court makes comment about materials submitted under seal and how this may be affected by statements made in open court
11:52 Parties confer; Defendant waives seal as to any comments made in the courtroom
11:54 Defendant's attorney makes a statement on Defendant's behalf
12:00 Defendant's attorney provides the Court and Government with copy of statement
12:01 Defendant makes a statement on his own behalf
12:02 No other person wishes to speak
12:03 Government makes a statement
12:09 Defendant rests on his briefing in response to the Government's loss enhancement arguments
12:10 Court discusses statements of the parties, facts of the case, and facts as presented in presentence report
12:31 Clerk circulates proposed conditions of supervised release; Court notes that supervised release may be an academic exercise in light of Defendant's immigration history
12:34 Defendant has two comments regarding the proposed conditions of supervised release in light of his desire to return to the United Kingdom
12:35 Court is agreeable; Government has no objections; Court asks Mr. Fetherston to advise on process of Defendant's return to United Kingdom
12:36 Mr. Fetherston suggests that supervised release commence in the Central District of California
12:36 Defendant's attorney comments
12:36 Court will designate the Central District of California as the place to report; notes that nothing in the Court's judgment or sentence requires that he remain in the United States
12:38 Court imposes the following formal sentence:
Time served as to Count One and Two to run concurrently for a total sentence of time served
1 year of supervised release as to Counts One and Two
Fine is waived
\$200.00 special assessment
Defendant is ordered to report for supervised release to the Central District of California on Monday, July 29, 2019
12:41 Court dismisses the remaining counts in the superseding indictment
12:42 Court advises Defendant of his right of appeal
12:43 Parties have nothing further to address
12:43 Court stands in recess

FORMAL SENTENCE

Custody of Bureau of Prisons

Time Served as to Counts One and Two

Supervised Release / Probation

1 year as to Counts One and Two

Fine

Terms: None

- ☒ Fine waived due to Defendant's inability to pay
- ☐ Interest on fine is waived
- ☐ Defendant to participate in FBP Inmates' Financial Responsibility Program
- ☐ Payments to apply to special assessment, then fine or restitution (if applicable)
- ☐ Court imposes costs of incarceration, community confinement, and supervision

Restitution

Terms: N/A

Payee(s):

Special Terms of Payment:

Conditions of Supervised Release

- | | |
|---|--|
| <input checked="" type="checkbox"/> Report in 72 hours | <input checked="" type="checkbox"/> Follow probation officer instructions |
| <input checked="" type="checkbox"/> No other crimes | <input checked="" type="checkbox"/> Permit probation visits and confiscation |
| <input checked="" type="checkbox"/> No firearms or other dangerous weapons | <input checked="" type="checkbox"/> No association with criminals |
| <input checked="" type="checkbox"/> No illegally possess controlled substances | <input checked="" type="checkbox"/> Shall not knowingly leave district |
| <input checked="" type="checkbox"/> Reside at approved residence | <input checked="" type="checkbox"/> No informer agreement without approval |
| <input checked="" type="checkbox"/> Best efforts to secure full-time employment | <input checked="" type="checkbox"/> Cooperate with ICE |
| <input checked="" type="checkbox"/> Notify if change of residence / employment | |
| <input checked="" type="checkbox"/> Notify probation of arrest | |

Special Assessment

Terms: \$200.00

- ☒ To be paid immediately to the Clerk of the Court, Room 362
- ☐ To be paid prior to the expiration of this sentence
- ☐ Other:

Forfeiture

Terms: N/A

Custody Status

- ☐ Defendant remanded to custody of U.S. Marshal

- ☐ Execution of sentence stayed until ____
☐ Defendant shall voluntarily surrender to institution on or after ____
☐ Defendant's bond continued until he/she reports
☒ Defendant advised of right of appeal
☐ Recommendations for BOP: Placement at a federal correctional facility most near to the Eastern District of Wisconsin

Other

- ☒ Upon motion of the government, Counts 3–10 be and the same are hereby DISMISSED
☒ Court orders that drug testing requirements be and the same are hereby WAIVED

STATEMENT OF REASONS

- ☐ The Court adopts the factual findings and Guideline application in the presentence report
or
☒ The Court adopts the factual findings and Guideline application in the presentence report except as noted at sentencing

Guideline Range Determined by the Court:

Total Offense Level:	11
Criminal History Category:	I
Imprisonment Range:	8–14 months imprisonment
Supervised Release Range:	1–3 years supervised release
Fine Range:	\$4,000.00–\$40,000.00
Special Assessment:	\$200.00

- ☒ Fine is waived or is below the Guideline range because of Defendant's inability to pay
☐ Full restitution is not ordered for the following reasons:

- ☐ The sentence is within the Guideline range, that range does not exceed 24 months, and the Court finds no reason to depart from the sentence called for by application of the Guidelines
or
☐ The sentence is within the Guideline range, that range exceeds 24 months, and the sentence is imposed for the following reasons:
or
☒ The sentence departs from the Guideline range for the reasons set forth at sentencing